

## CHAPTER 65

( SB 148 )

AN ACT relating to recording requirements for mortgages and deeds with retained liens.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 382.290 is amended to read as follows:

- (1) In recording mortgages and deeds in which liens are retained (except railroad mortgages securing bonds payable to bearer), there shall be left a blank space immediately after the record of the deed or mortgage of at least two (2) full lines for each note or obligation named in the deed or mortgage, or in the alternative, at the option of the county clerk, a marginal entry record may be kept for the same purposes as the blank space. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instruments.
- (2) *No county clerk or deputy county clerk shall admit to record any mortgage or deed in which liens are retained unless the mortgage or deed in which a lien is retained plainly specifies and refers to the next immediate source from which the mortgagor or grantor derived title to the property or the interest encumbered therein.*
- (3) When any note named in any deed or mortgage is assigned to any other person, the assignor may, over his own hand, attested by the clerk, note such assignment in the blank space, or in a marginal entry record, beside a listing of the book and page of the document being assigned, and when any one (1) or more of the notes named in any deed or mortgage is paid, or otherwise released or satisfied, the holder of the note, and who appears from the record to be such holder, may release the lien, so far as such note is concerned, by release, over his own hand, attested by the clerk. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instrument.
- ~~(4)~~~~(3)}~~ No person who does not, from such record or assignment of record, appear at the time to be the legal holder of any note secured by lien in any deed or mortgage, shall be permitted to release the lien securing any such note, and any release made in contravention of this section shall be void; but this section does not change the existing law if no such entry is made.
- ~~(5)~~~~(4)}~~ For each assignment and release so made and attested by the clerk, he may charge a fee pursuant to KRS 64.012 to be paid by the person executing the release or noting the assignment.
- ~~(6)~~~~(5)}~~ If such assignment of a note is made by separate instrument or by deed assigning the note, or in a marginal entry record, the instrument of writing or deed or marginal entry record shall set forth the date of notes assigned, a brief description of notes, the name and post office address of assignee, and the deed book and page of the instrument wherein the lien or mortgage is recorded and the clerk or deputy clerk receiving such instrument of writing or deed of assignment for record shall at the option of the county clerk immediately either link the assignment and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or endorse at the foot of the record in the space provided in subsection (1), "The notes mentioned herein (giving a brief description of notes assigned) have been transferred and assigned to (insert name and address of assignee) by deed of assignment (or describe instrument) dated and recorded in deed book .... page ....," and attest such certificate. For making such notation on the record the clerk shall be allowed a fee pursuant to KRS 64.012 for each notation so made, to be paid by the party filing the instrument of writing or deed of assignment.
- ~~(7)~~~~(6)}~~ No holder of a note secured by lien retained in either deed or mortgage shall lodge for record, and no clerk or deputy clerk shall receive and permit to be lodged for record, any deed or instrument of writing that does not comply with the provisions of this section.

➔Section 2. KRS 382.297 is amended to read as follows:

A recorded mortgage may be amended by an affidavit of amendment prepared by an attorney to correct clerical errors or omitted information. An amendment may not change any term, dollar amount, or interest rate in the mortgage, unless signed by the mortgagor and secured party. ***An amendment shall not alter the parties or the collateral of a recorded mortgage.*** The attorney preparing the affidavit shall certify in the affidavit that notice of filing the amendment has been given to the mortgagor by mailing a copy of the amendment to the mortgagor at the address shown on the original mortgage. A subsequent release of the mortgage releases any amendments to the original mortgage.

**Signed by Governor March 23, 2015.**